

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 483 be amended to read as follows:

- 1 Page 1, line 4, delete "or documents".
- 2 Page 1, line 4, delete "satisfy" and insert "**satisfies**".
- 3 Page 1, delete lines 5 through 17.
- 4 Page 2, delete lines 1 through 35, begin a new line block indented
- 5 and insert:
- 6 "**(1) The document shows the name of the individual to whom**
- 7 **the document was issued, and the name conforms to the name**
- 8 **in the individual's voter registration record.**
- 9 **(2) The document:**
- 10 **(A) shows a photograph of the individual to whom the**
- 11 **document was issued; or**
- 12 **(B) is one (1) of the documents on the list:**
- 13 **(i) issued by the bureau of motor vehicles under**
- 14 **IC 9-24-11-2; and**
- 15 **(ii) used by the bureau as proof of identification for the**
- 16 **new issuance of a driver's license, permit, or**
- 17 **identification card.**
- 18 **(3) The document includes an expiration date, and the**
- 19 **document:**
- 20 **(A) is not expired; or**
- 21 **(B) expired after the date of the most recent general**
- 22 **election.**
- 23 **(4) The document was issued by the United States or the state**
- 24 **of Indiana.**
- 25 SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE
- 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2005]: **Sec. 7.2. (a) A voter who desires to vote an official**
- 28 **ballot at a primary election shall provide proof of identification (as**
- 29 **defined in IC 3-5-2-40.5).**
- 30 **(b) Before the voter proceeds to vote in a primary election, a**
- 31 **member of the precinct election board shall ask the voter to**

1 provide proof of identification. The voter must produce the proof  
2 of identification before being permitted to sign the poll list.

3 (c) If:

4 (1) the voter is unable or declines to present the proof of  
5 identification; or

6 (2) a member of the precinct election board determines that  
7 the proof of identification presented by the voter does not  
8 qualify as proof of identification under IC 3-5-2-40.5;

9 a member of the precinct election board shall challenge the voter  
10 as prescribed by IC 3-11-8.

11 (d) If the voter executes a challenged voter's affidavit under  
12 section 9 of this chapter or IC 3-11-8-22, the voter may:

13 (1) sign the poll list; and

14 (2) receive a provisional ballot."

15 Page 2, line 37, after "(a)" insert "A voter who desires to vote an  
16 official ballot at an election shall provide proof of identification (as  
17 defined in IC 3-5-2-40.5).

18 (b) Before the voter proceeds to vote in the election, a member  
19 of the precinct election board shall ask the voter to provide proof  
20 of identification. The voter shall produce the proof of identification  
21 before being permitted to sign the poll list.

22 (c) If:

23 (1) the voter is unable or declines to present the proof of  
24 identification; or

25 (2) a member of the precinct election board determines that  
26 the proof of identification provided by the voter does not  
27 qualify as proof of identification under IC 3-5-2-40.5;

28 a member of the precinct election board shall challenge the voter  
29 as prescribed by this chapter.

30 (d) If the voter executes a challenged voter's affidavit under  
31 section 22 of this chapter, the voter may:

32 (1) sign the poll list; and

33 (2) receive a provisional ballot.

34 (e)".

35 Page 2, line 38, strike "admitted".

36 Page 2, line 39, strike "to the polls. Upon entering the polls, the" and  
37 insert "instructed by a member of the precinct election board to  
38 proceed to the location where the poll clerks are stationed. The".

39 Page 3, line 3, strike "(b)" and insert "(f)".

40 Page 3, delete lines 11 through 13.

41 Page 3, line 14, delete "(d)" and insert "(g)".

42 Page 3, line 22, delete "present" and insert "present, in addition to  
43 the proof of identification required under subsection (b),".

44 Page 3, line 23, delete "(e)" and insert "(h)".

45 Page 3, line 24, delete "(e)" and insert "(h)".

46 Page 3, line 25, after "42 U.S.C. 15483," insert "in addition to the  
47 proof of identification required under subsection (b),".

- 1 Page 3, line 33, delete "(f)" and insert "(i)".
- 2 Page 3, line 34, delete "(e)," and insert "(h),".
- 3 Page 3, line 39, delete "(g)" and insert "(j)".
- 4 Page 3, line 40, delete "(e)" and insert "(h)".
- 5 Page 4, line 2, delete "(h)" and insert "(k)".
- 6 Page 4, line 6, delete "(i)" and insert "(l)".
- 7 Page 4, line 20, delete "(j)" and insert "(m)".
- 8 Page 4, line 20, delete "(i):" and insert "(l):".
- 9 Page 4, line 26, delete "(k)" and insert "(n)".
- 10 Page 4, between lines 29 and 30, begin a new paragraph and insert:
- 11 **"(b) A voter who desires to vote an official ballot at an election**
- 12 **shall provide proof of identification (as defined in IC 3-5-2-40.5).**
- 13 **(c) Before the voter proceeds to vote in the election, a member**
- 14 **of the precinct election board shall ask the voter to provide proof**
- 15 **of identification. The voter shall produce the proof of identification**
- 16 **before being permitted to sign the poll list.**
- 17 **(d) If:**
- 18 **(1) the voter is unable or declines to present the proof of**
- 19 **identification; or**
- 20 **(2) a member of the precinct election board determines that**
- 21 **the proof of identification provided by the voter does not**
- 22 **qualify as proof of identification under IC 3-5-2-40.5;**
- 23 **a member of the precinct election board shall challenge the voter**
- 24 **as prescribed by this chapter.**
- 25 **(e) If the voter executes a challenged voter's affidavit under**
- 26 **section 22 of this chapter, the voter may:**
- 27 **(1) sign the poll list; and**
- 28 **(2) receive a provisional ballot."**
- 29 Page 4, line 30, strike "(b)" and insert "(f)".
- 30 Page 4, line 31, strike "admitted to the polls. Upon entering the
- 31 polls, the" and insert **"instructed by a member of the precinct**
- 32 **election board to proceed to the location where the poll clerks are**
- 33 **stationed. The"**.
- 34 Page 4, line 37, delete "(g)," and insert "(j),".
- 35 Page 4, line 39, strike "(c)" and insert "(g)".
- 36 Page 5, delete lines 5 through 7.
- 37 Page 5, line 8, delete "(e)" and insert "(h)".
- 38 Page 5, line 16, delete "(f)" and insert "(i)".
- 39 Page 5, line 16, strike "(c):" and insert "(g):".
- 40 Page 5, line 22, delete "(g)" and insert "(j)".
- 41 Page 5, delete lines 27 through 34, begin a new paragraph and insert:
- 42 **"SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS**
- 43 **FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section**
- 44 **applies after December 31, 2005.**
- 45 **(b) The poll clerk or assistant poll clerk shall examine the list**
- 46 **provided under IC 3-7-29-1 to determine if the county election board**
- 47 **has indicated that the voter is required to provide additional personal**

identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, **in addition to the proof of identification required by section 25.1(b) of this chapter**, a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, **and in addition to the proof of identification required by section 25.1(b) of this chapter**, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

(1) signs the individual's address; or

(2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 **or 25.1** of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. **(a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.**

**(b)** A precinct election board may not keep a poll list other than the poll list required by section 25 **or 25.1** of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.2. An absentee voter is not required to provide proof of identification when:**

**(1) mailing, delivering, or transmitting an absentee ballot under section 1 of this chapter; or**

**(2) voting before an absentee board under this chapter.**

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. **(a)** If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects~~

**(b) Except as provided in subsection (c), the challenge procedure is the same as though the ballot was cast by the voter in person.**

**(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).**

**(d)** If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. **(a)** If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects;~~

**(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.**

**(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).**

~~(b)~~ **(d)** If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

~~(c)~~ **(e)** The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

**(b) The form of the envelope is prescribed under IC 3-5-4-8. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification under IC 3-5-2-40.5.**

~~(b)~~ **(c)** Except as provided in subsection ~~(c)~~ **(d)** and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope,

1 in another envelope or container marked "Provisional Ballots".

2 ~~(c)~~ **(d)** This subsection applies to the sealed envelope and the  
 3 affidavits affixed to the envelope of a provisional voter described in  
 4 section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the  
 5 precinct election board shall keep the sealed envelope or container  
 6 separate from the envelope or container described in subsection ~~(b)~~ **(c)**.  
 7 The envelope or container described in this subsection must be labeled  
 8 "Provisional Ballots Issued After Regular Poll Closing Hours".

9 SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as  
 11 provided in section 5 of this chapter, if the county election board  
 12 determines that all the following apply, a provisional ballot is valid and  
 13 shall be counted under this chapter:

14 (1) The affidavit executed by the provisional voter under  
 15 IC 3-11.7-2-1 is properly executed.

16 (2) The provisional voter is a qualified voter of the precinct **and**  
 17 **has provided proof of identification, if required, under**  
 18 **IC 3-10-1 or IC 3-11-8.**

19 (3) Based on all the information available to the county election  
 20 board, including:

21 (A) information provided by the provisional voter;

22 (B) information contained in the county's voter registration  
 23 records; and

24 (C) information contained in the statewide voter registration  
 25 file;

26 the provisional voter registered to vote at a registration agency  
 27 under this article on a date within the registration period.

28 (b) If the provisional voter has provided information regarding the  
 29 registration agency where the provisional voter registered to vote, the  
 30 board shall promptly make an inquiry to the agency regarding the  
 31 alleged registration. The agency shall respond to the board not later  
 32 than noon of the first Friday after the election, indicating whether the  
 33 agency's records contain any information regarding the registration. If  
 34 the agency does not respond to the board's inquiry, or if the agency  
 35 responds that the agency has no record of the alleged registration, the  
 36 board shall reject the provisional ballot. The board shall endorse the  
 37 ballot with the word "Rejected" and document on the ballot the inquiry  
 38 and response, if any, by the agency.

39 ~~(c) This subsection applies after December 31, 2003.~~ Except as  
 40 provided in section 5 of this chapter, a provisional ballot cast by a voter  
 41 described in IC 3-11.7-2-1(b) is valid and shall be counted if the county  
 42 election board determines under this article that the voter filed the  
 43 documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with  
 44 the county voter registration office not later than the closing of the polls  
 45 on election day.

46 SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA  
 47 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 48 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. (a) A voter who:**

(1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of the voter's inability or declination to provide proof of identification as defined by IC 3-5-2-40.5; and

(2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:

(1) provides proof of identification (as defined in IC 3-5-2-40.5) to the circuit court clerk or county election board; and

(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

1 (e) If the county election board determines that a voter  
 2 described in subsection (b) or (c) has been challenged for a cause  
 3 other than the voter's inability or declination to provide proof of  
 4 identification (as defined in IC 3-5-2-40.5), the board shall:

5 (1) note on the envelope containing the provisional ballot that  
 6 the voter has complied with the proof of identification  
 7 requirement; and

8 (2) proceed to determine the validity of the remaining  
 9 challenges set forth in the challenge affidavit before ruling on  
 10 the validity of the voter's provisional ballot.

11 (f) If a voter described by subsection (a) fails by the deadline for  
 12 counting provisional ballots referenced in subsection (a) to:

13 (1) appear before the county election board; and

14 (2) execute an affidavit in the manner prescribed by  
 15 subsection (b) or (c);

16 the county election board shall find that the voter's provisional  
 17 ballot is invalid.

18 SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board  
 20 determines that the affidavit executed by the provisional voter has not  
 21 been properly executed, that the provisional voter is not a qualified  
 22 voter of the precinct, **that the voter failed to provide proof of**  
 23 **identification when required under IC 3-10-1 or IC 3-11-8**, or that  
 24 the provisional voter did not register to vote at a registration agency  
 25 under this article on a date within the registration period, the board shall  
 26 make the following findings:

27 (1) The provisional ballot is invalid.

28 (2) The provisional ballot may not be counted.

29 (3) The provisional ballot envelope containing the ballots cast by  
 30 the provisional voter may not be opened.

31 (b) If the county election board determines that a provisional ballot

- 1 is invalid, a notation shall be made on the provisional ballot envelope:
- 2 "Provisional ballot determined invalid".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to SB 483 as printed February 8, 2005.)

---

Senator LUTZ L